

Patent  
Serial No. 09/821,183

Amendment in Reply to Office Action of August 12, 2005

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated August 12, 2005. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-9, 11-19, 21, and 22 are pending in the Application. Claims 1, 6, 11, 16, 21, and 22 are independent claims.

In the Office Action, Claims 1, 5-6, 11, 15-16, and 21-22 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,353,764 to Imagawa ("Imagawa"). Claims 2, 3, 7, 8, 12, 13, 17, and 18 rejected under 35 U.S.C. §103(a) as unpatentable over Imagawa in view of U.S. Patent Publication No. 2001/00562225 to DeVito ("DeVito").

Imagawa shows a system for monitoring a users gestures for controlling a device (e.g., see, FIG. 9). The system further can determine who of a plurality of persons to accept commands from "based on predetermined people's priorities (for example, within a family, the order of father, mother, and children) ..." (See, Col. 4, lines 9-17.) Imagawa also shows controlling a television volume in response to a user picking up a telephone receiver.

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DeVito shows a system for measuring a current physiological condition of a user for controlling a device (see, paragraph [0034], lines 1-5). Playback may be halted until the physiological condition indicates that a viewer is currently paying attention (see, paragraph [0116]).

The method of Claim 1 is not anticipated or made obvious by the teachings of Imagawa in view of DeVito. For example, Imagawa in view of DeVito does disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "establishing at least one rule defining a predefined user activity, said rule including at least one condition and additional information external to a user, wherein the additional information external to said user includes at least one of features of media on said media player, an identity of a person other than said user, and a user profile determined by at least one of implicit and explicit responses from the user, and said rule including an action item to be performed to automatically adjust said media player when said rule is satisfied; analyzing at least one of audio and video information focused on said user to identify said condition; and performing said action item if said rule is satisfied" as required by Claim 1, and as substantially required by

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each of Claims 6, 11, 16, 21, and 22.

Based on the foregoing, the Applicants respectfully submit that independent Claims 1, 6, 11, 16, 21, and 22 are patentable over Imagawa in view of DeVito and notice to this effect is earnestly solicited. Claims 2-5, 7-9, 11, 12, 14, 15, and 17-19 respectively depend from one of Claims 1, 6, 13, and 19 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration and allowance of each of the dependent claims is respectfully requested.

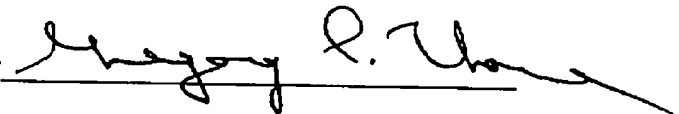
In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded. Further, no official notices are conceded. Specifically, Applicant's do not concede and respectfully traverse the position that "concepts and advantages of automatically recording a programming being played on a media

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player are well known and expected in the art." (See, Office Action, page 10, paragraph 12.) The Examiner is requested to produce a prior art reference that shows analyzing audio and video information focused on a user, and issuing a command to begin recording when a user is not paying attention, or the Examiner is requested to withdraw this position.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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